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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,952	01/28/2002	Peter Holemans	38190/239691	4630

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EXAMINER

BINDA, GREGORY JOHN

ART UNIT	PAPER NUMBER
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3679

DATE MAILED: 10/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/058,952

Applicant(s)

HOLEMANS ET AL.

Examiner

Greg Binda

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) 17-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 September 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Election/Restrictions

2. Claims 17-24 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election of a shaft (Group I) was made **without** traverse in Paper No. 4.

Drawings

3. The drawings were received on Sep 15, 2003. These drawings are objected to because:
 - a. Fig. 3 uses an inappropriate cross hatch pattern for the filler 34. The pattern used in Fig. 3 indicates the filler is made from metal, not resin or foam as described on page 9, line 3. See MPEP § 608.02 for an appropriate pattern.
 - b. Reference numeral 40 identifies reinforcing fibers in Fig. 3 (see also page 9, line 21) and a driveshaft in Figs 4-6 (see also page 11, line 2).

Specification

4. The disclosure is objected to because on page 9, line 30, "lobes 38" should be changed to "lobes 32".

Claim Objections

5. Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

7. Claim 3-6 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 1 as amended reads only on the embodiment in Fig. 3. Therefore the combinations covered by claims 3-6 are new matter because there is no written description of the features corresponding to the limitations of in claims 3-6 in the description of the embodiment in Fig. 3 in the application as originally filed.

Claim Rejections - 35 USC § 102

8. Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Williams, US 5,097,870. Fig. 1 shows a damage tolerant shaft comprising: a plurality of lobes 4, the lobes shaped relative to one another such that the lobes 4 are capable of being positioned to define an

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annular body and a plurality of ribs extending within the annular body; an outer layer 10 surrounding the plurality of lobes 4 to thereby further define the annular body; and a filler 6, 8 within interstices between portions of adjacent lobes 4 as well as between the lobes 4 and the outer layer 10. Fig. 1 shows the annular body and plurality of ribs of lobes define a plurality of voids 7 extending lengthwise there along. In col. 3, lines 30 & 31 Williams discloses that the annular body and the plurality of ribs are made of organic and inorganic materials. Fig. 7 shows that the plurality ribs includes a plurality of reinforcing fibers (see also col. 5, lines 24 & 25) oriented in a direction perpendicular to the axis about which the annular body is symmetrical. In col. 2, lines 65+, Williams discloses that the outer layer includes fibers perpendicular to the axis since the outer layer of the annular body also includes the outermost portion of the body.

9. Claims 1, 2, 4-6, 8-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by any one of Bradley, US 2,340,926; Hamilton, US 4,374,881; and Fernez, FR 964,069

10. Claims 1-6 & 8-13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Witort et al, US 3,110,754.

Response to Arguments

11. Applicant's arguments filed Sep 15, 2003 have been fully considered but they are not persuasive.

- a. Applicant argues that Williams fails to show filler between portions of adjacent lobes and between the lobes and the outer layer. However, as noted in the rejection above,

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Williams does show in Fig. 1 the filler 6, 8 within interstices between portions of adjacent lobes 4 as well as between the lobes 4 and the outer layer 10.

b. Applicant's failure to address the references cited in the rejections in items 9 & 10 above constitutes a failure to comply with 37 CFR 1.111(b). Such failure amounts to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Greg Binda whose telephone number is (703) 305-2869. The examiner can normally be reached Monday through Thursday from 9:30 am to 7:00 pm. The examiner can also be reached on alternate Fridays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne, can be reached on (703) 308-1159. The fax phone number is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.



Greg Binda
Primary Examiner
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